

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

GODDESS AND BAKER WACKER L.L.C.,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

STERLING BAY COMPANIES, L.L.C.,

Defendant.

Case No. 21-cv-1597

Hon. John Z. Lee

**MOTION FOR MISCELLANEOUS RELIEF AND
LEAVE TO FILE SUPPLEMENTAL AUTHORITY**

Defendant Sterling Bay Companies, L.L.C. (“Sterling Bay”) respectfully moves this Court for leave to file supplemental authority in support of its pending motion to dismiss (briefing at ECF 24, 31, and 33) and alternative motion for referral to the National Labor Relations Board (the “NLRB”) under the primary jurisdiction doctrine (briefing at ECF 26, 32, and 34).

Attached as Exhibit A is the decision of the NLRB in *Int’l Union of Operating Engineers, Local Union No. 150 (Lippert Components, Inc.)*, Case 25-CC-228342 (NLRB July 21, 2021). In this decision, the NLRB determined that the placement of “Scabby the Rat” outside a neutral employer’s location where a separate employer would be present (with whom a labor union had a dispute) did not violate the National Labor Relations Act (the “NLRA”). The plaintiff in the current case before this Court has cited placement of “Scabby the Rat” in support of its RICO claims. (ECF 1, ¶¶ 14, 69; ECF 31 at 9).

Sterling Bay submits that the NLRB’s action and decision in the attached matter supports Sterling Bay’s arguments in the pending briefing as follows:

- **Sterling Bay argument in motion to dismiss:** The complaint alleges no wrongful conduct other than conduct that would be wrongful—if at all—only because of a supposed violation of the NLRA, as the NLRB’s oversight in the attached decision confirms.
- **Sterling Bay argument in motion for primary jurisdiction referral:** To the extent the conduct alleged in this case could be unlawful, then the matter should be referred for such a determination to the NLRB.

WHEREFORE, defendant Sterling Bay respectfully requests this Court permit the filing of the attached decision by the NLRB as supplemental authority in support of its pending motions.

Dated: July 27, 2021

Respectfully submitted,

Sterling Bay Companies, L.L.C.

By: /s/ John J. Hamill

John J. Hamill
Joseph A. Roselius
Jacob R. Clubb
DLA Piper LLP (US)
444 W. Lake Street, Suite 900
Chicago, IL 60606-0089
T 312.368.4000
E john.hamill@us.dlapiper.com
E joseph.roselius@us.dlapiper.com
E jacob.clubb@us.dlapiper.com

*Counsel for Defendant
Sterling Bay Companies, L.L.C.*

CERTIFICATE OF SERVICE

I, John J. Hamill, hereby certify that on July 27, 2021, I electronically filed the foregoing *Motion for Miscellaneous Relief and Leave to File Supplemental Authority* using the ECF system for the United States District Court for the Northern District of Illinois and served the foregoing document via electronic mail on the plaintiff.

/s/ John Hamill